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Specially Appearing Pro Per

United States Courts  
Southern District of Texas  
FILED  
MAY 25 2021  
David J. Bradley, Clerk of Court

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS**

DARREN CHAKER,  
  
Plaintiff,

vs.

THE CMI GROUP,  
  
Defendant.

Case No.: 4:2007-cv-01802

**APPLICATION TO FILE UNDER SEAL**

**[FILED CONDITONALLY UNDER  
SEAL]**

COMES NOW PLAINTIFF DARREN CHAKER and files this Motion to Seal the attached Motion to Seal Records.

**I. GOOD CAUSE EXISTS TO SEAL THE EX PARTE MOTION TO SEAL RECORDS SINCE IT DISCLOSES AND REFERENCES TO STATUTORILY PROTECTED INFORMATION FOR VICTIMS OF VIOLENT CRIMES WHO ARE MEMBERS OF A STATE PROGRAM DESIGNED TO KEEP HIS/HER LOCATION CONFIDENTIAL AND IDENTIFYING INFORMATION UNDISCLOSED IN PUBLIC RECORDS.**

Plaintiff is a crime victim and has received several threats<sup>1</sup>. After being interviewed by a representative and submitting dozens of documents, Plaintiff was admitted into an address confidentiality program administered by the California Secretary of State known as Safe at Home. The motion to seal and exhibits demonstrating Plaintiff is a participant in the Safe at Home Program are confidential. See, Gov't Code § 6206.5(1) which states in pertinent part, "any records or documents pertaining to a

<sup>1</sup> See Declaration in attached Ex Parte Motion to Seal Records and Exhibits B and C attached thereto.

1 program participant shall be held confidential. The argument contained in every page of  
 2 the motion addresses the fact Plaintiff is a member of Safe at Home. Exhibits B and C are  
 3 actual Safe at Home records and such records are **not a public record** under state law.

4 Likewise, Exhibit D references to Safe at Home and is from the California  
 5 Department of Motor Vehicles. "Because this personal information originated from DMV  
 6 records and was retrieved by a statutorily authorized agency," it remains protected from  
 7 disclosure under Vehicle Code section 1808.21... Lastly, "disclosure of any personal  
 8 information from a state DMV record is dependent on the provisions of the Driver's  
 9 Privacy Protection Act of 1994 (DPPA) [(18 U.S.C. § 2721 et seq.).]" *See State of*  
 10 *California v. Superior Court* (Flynn) (2016) 4 Cal.App.5th 94, 101 [208 Cal.Rptr.3d  
 11 501].

12 Also, Exhibit F is a sealed court order sealing records and amending the caption to  
 13 replace Plaintiff's name with "John Doe." Since this record is a sealed record the motion  
 14 containing argument in relation to Exhibit F would be justified in being sealed as well.

15 Additionally, a California court would be required to keep the motion confidential.  
 16 Specifically, "The court shall keep the confidential information form confidential." Cal.  
 17 Civ. Proc. Code § 367.3(3)(b)(1). The motion presented here would be confidential in a  
 18 California state court and Plaintiff brings this motion to apply in federal court under  
 19 comity, then no reference should be made to the sealed motion.

20 Further, Exhibit A [judicial council form to seal records for Safe at Home  
 21 participants] states Safe at Home Participants who file a motion to seal in state court file  
 22 form SH-001 which states in bold capital words:

**TO COURT CLERK: THIS FORM IS CONFIDENTIAL**

24 Plaintiff has also submitted several documents from credit reporting agencies such  
 25 as Experian, TransUnion, Lexis, SageStream<sup>2</sup> [past of Lexis] which are deemed to be  
 26 confidential. 15 U.S.C. § 1681.

27 \_\_\_\_\_  
 28 <sup>2</sup> SageStream, LLC is a credit reporting agency that issues consumer reports regulated by the Fair  
 Credit Reporting Act (FCRA). See <https://www.sagestreamllc.com/>

1 The attached motion to seal records also mirrors other records which have filed  
 2 under seal in California state court. Once sealed, a record can only be unsealed by order  
 3 of court. (Rule 2.551(h)(1).) So long as it remains under seal, all parties must refrain from  
 4 filing anything not under seal that would disclose the sealed matter. (Rule 2.551(c).)  
 5 (*H.B. Fuller Co. v. Doe* (2007) 151 Cal.App.4th 879, 889 [60 Cal.Rptr.3d 501].) 3-51  
 6 California Trial Guide § 51.23 (2017).

7 In addition, Plaintiff's name, address, and email, Cal. Civ. Proc. Code § 367.3 (a)  
 8 (1) & (2) are each deemed confidential under California due to being a participant in the  
 9 Safe at Home Program.

10 Last, where a person's safety is at risk there is little doubt records should be  
 11 sealed. *United States v. Doe* (9th Cir. 2017) 870 F.3d 991, 994 [justifying sealing records  
 12 where party demonstrated failing to seal the records "endangered his life and the lives of  
 13 his family members, Doe moved to seal all documents..."] If this application were not  
 14 granted it would undermine the purpose of statute and place Plaintiff's safety at risk. +

### 15 CONCLUSION

16 It is for the above reasons Plaintiff requests this honorable Court to grant this  
 17 motion since the attached motion and its contents are confidential. Further, since the  
 18 Application to File Under Seal discloses the contents of the attached motion, Plaintiff  
 19 requests the application is filed under seal as well.

20 If for any reason this motion is not granted, Plaintiff requests the Clerk of the  
 21 ~~Court to return this Application and Ex Parte Motion to Seal~~ Records as having such  
 22 material in the public record could be a death sentence.

23 DATED: May 22, 2021

24 Respectfully submitted,

25   
 26 Darren Chaker-Delnero  
 27 Plaintiff  
 28

**CONFIDENTIAL**

SH-001

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (party name or pseudonym):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
SHORT TITLE:	
<b>CONFIDENTIAL INFORMATION FORM UNDER CODE OF CIVIL PROCEDURE SECTION 367.3</b>	CASE NUMBER:
<del>TO COURT CLERK: THIS FORM IS CONFIDENTIAL</del> <b>TO PARTIES: USE THIS FORM ONLY IF A PARTY IS AN ACTIVE PARTICIPANT IN THE SAFE AT HOME PROGRAM</b>	

*(Instructions for filer and recipient are on the back of this form.)*

1. This case includes a party who is enrolled in the Safe at Home address confidentiality program with the Secretary of State, and who is filing using a pseudonym (Jane Doe, John Doe, or Doe) under Code of Civil Procedure section 367.3.
2. The document that this form is being filed with is a (check one):
  - a. ☐ Complaint, cross-complaint, or petition.
  - b. ☐ Answer, response, objection, or other first paper.
  - c. ☐ Discovery document.
  - d. ☐ Other (describe):
3. **True Name and Pseudonym of Party** (Complete for any pleading or document filed by a participant in the Safe at Home program.)
  - a. True name of party:
  - b. Party type (check one):
 

☐ Plaintiff/petitioner  
☐ Defendant/respondent/objector  
☐ Other (describe):
  - c. Pseudonym used (check one): ☐ Jane Doe ☐ John Doe ☐ Doe
  - d. If more than one party is using the same pseudonym, add an identifying number (such as Jane Doe #2): \_\_\_\_\_
4. **Redacted Information** (Complete for any pleading or document that includes redactions or blacked-out information.)

LOCATION OF REDACTED INFORMATION (page, and item or line number where the redaction occurs)	INFORMATION REDACTED (text of identifying characteristics that has been redacted or blacked out; see Instruction No. 5 on page 2)
a.	
b.	
c.	

☐ Check here if there is not enough space for all the redacted material, and continue on an attached sheet titled Attachment 4.

Page 1 of 2



**CONFIDENTIAL**

SH-001

SHORT TITLE:

CASE NUMBER:

5. Number of pages attached: \_\_\_\_\_

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

**Declaration by Pseudonymous (Doe) Party**

I (*true name*) declare under penalty of perjury under the laws of the State of California that I am an active participant in the Safe at Home confidential address program with the California Secretary of State. My Safe at Home Authorization Card (ID) No. (if available) is: \_\_\_\_\_. I agree to provide proof of my active participation if required to do so by the court.

Date:

(TYPE OR PRINT TRUE NAME)

(SIGNATURE)

**INSTRUCTIONS**

*(Note: This form may be used only in cases in which one or more parties is enrolled in the Safe at Home program and using a pseudonym under Code of Civil Procedure section 367.3.)*

1. The Safe at Home program is an address confidentiality program run by the Secretary of State. Parties who are active participants in that program may use a pseudonym (Jane Doe, John Doe, or Doe) in place of the party's true name in a civil action. (Plaintiffs or petitioners who do this must state on the front of the complaint "ACTION BASED ON CODE OF CIVIL PROCEDURE SECTION 367.3.") Pseudonymous parties may also exclude or redact (black out) other identifying characteristics (defined below) from all pleadings and documents they file, and instead provide that information confidentially to the court and other parties using this form. (See Code Civ. Proc., § 367.3(b)(1).) In such cases, papers filed by other parties in the case also **must** be worded so as to protect the name or other identifying characteristics of the *Doe* party from public revelation, or have that information redacted (blacked out on the document). Any intentional violations of this law are subject to sanctions. (See Code Civ. Proc., § 367.3(b)(2).)
2. **This form must be served and filed each time a party uses a pseudonym (a *Doe* name) in place of that party's name in a court document, with items 2 and 3 completed to provide the court and other parties with the *Doe* party's true name, and item 4 completed if there are other identifying characteristics redacted or blacked out from the document.** A party using a pseudonym must also sign and date the declaration above, confirming active participation in the Safe at Home program. All parties and other persons must also serve and file this form any time they file a document in a case with identifying characteristics redacted or blacked out. Counsel for a party filing under a pseudonym may use the pseudonym for the name of the represented party in the attorney or party information box at the top of this form and any documents filed later.
3. **Warning to pseudonymous (*Doe*) party:** If a pseudonymous party initially files using a *Doe* name after another party has already filed something with the court (for example, if the pseudonymous party is a defendant, respondent, or objector), the statute does not automatically require that first party or the court to redact the true name or other identifying characteristics from documents or records already in the public files. A pseudonymous party who wants to restrict access to the party's name or other identifying characteristics in a document that has already been filed must make a motion (request) that the court seal the record or part of it under rules 2.550 and 2.551 of the California Rules of Court. (See Code Civ. Proc., § 367.3(b)(3).)
4. **Warning to recipient of this form:** A party who is served with this form is subject to Code of Civil Procedure section 367.3 and required to keep the information on the form, including the pseudonymous (*Doe*) party's true name, confidential. In addition, a party served with this form is required to use the *Doe* party's pseudonym in all pleadings and documents in the case from that point forward, to redact (black out) any other identifying characteristics from any pleading or document filed with the court after that point, and to use this form to provide to the court and other parties any information that has been redacted. A completed form SH-001 must be served and filed together with any redacted document.
5. "Identifying characteristics" that the party using the pseudonym may and all other parties **must** redact include name or any part thereof, address or any part thereof, city or unincorporated area of residence, age, marital status, relationship to any other party, race or ethnic background, telephone number, email address, social media profiles, online identifiers, contact information, or any other information from which that party's identity can be discerned, including images of the party using a pseudonym. (Code Civ. Proc., § 367.3(a)(1).) (See Code Civ. Proc., § 367.3(a)(2) for a list of "online identifiers.")